

REMARKS

Consideration of the captioned application in view of the foregoing amendments and following remarks is requested.

Pending Claims

Claim 1 has been amended by changing the word “and” into “or”. Furthermore the parentheses that were around the wording “wherein phenyl is substituted with one substituent selected from the group consisting of halogen and heterocyclyl” have been replaced by commas.

Claim 6 has been canceled.

Claim 8 has been amended by changing the word “and” into “or”. Furthermore the parentheses that were around the wording “wherein phenyl is substituted with one substituent selected from the group consisting of halogen and heterocyclyl” have been replaced by commas.

Claim rejections – 35 USC § 112 second paragraph

Claim 1 has been amended by changing the wording “and pharmaceutically acceptable salts thereof” into “or a pharmaceutically acceptable salt thereof. This amendment is following the suggestion of the Examiner and hence obviates the rejection based upon the wording “and pharmaceutically acceptable salts thereof”

Claim rejections - 35 USC § 112, first paragraph

Claims 8 – 35 are rejected under 35 USC § 112, first paragraph. The Applicant respectfully disagrees with said rejection.

First of all, the Applicant acknowledges the fact that the Examiner states that “ the specification [...] being enabling for treating angiogenesis and rheumatoid arthritis”. Consequently, as far as those indications are concerned the Applicant understands that the Examiner is of the opinion that there is an enabling disclosure.

The Examiner alleges that the “applicants have not provided any competent evidence that the instantly disclosed tests are highly predictive for all the uses disclosed and embraced by the claim language of the intended host.” The Applicant respectfully disagrees with this allegation. The Examiner’s attention is drawn towards Example 3 on page 50 of the specification. In said test, cell proliferation is measured in different cell lines derived from carcinomas such as HeLa cervical adenocarcinoma, HCT 116 colon carcinoma, PC-3 adenocarcinoma and A375 malignant melanoma. This is much more than just seeing whether a compound would inhibit kinases *in vitro*, this experiment actually measures whether cell proliferation is inhibited or not. Moreover, Example 4 shows inhibition of actual tumor growth in vivo. In view of the fact that the claims refers to the treatment of “subjects” and that “subjects” are defined on page 10, line 20 – 25, as – amongst others – an animal. This Example is an actual working example of claim 8. With respect to the treatment of human beings, the Applicant wants to submit that xenograft animal models, like the one in Example 4, are considered predictive to those skilled in the state of the art.

This all shows that there is sound scientific evidence that the compounds of the present invention show activity not only in vitro but also in vivo. The next step that would be required is to actually test the compounds in humans. Evidence of human testing is not a requirement to patentability in chemical compound cases.

The Examiner refers to the fact that “cancer” is an umbrella term. Applicants want to respectfully point out that in the present claims there is no reference to all types of cancer. The claims refer to types of cancer that are kinase-mediated. The experimental evidence in the specification shows 1) that the compounds of the invention inhibit kinases, 2) that the compounds of this invention show inhibition of cell proliferation (see Example 3) and 3) that the compounds of this invention even inhibit tumor growth in an

animal model (see Example 4). Applicants are of the opinion that this is ample support for the claims that are made.

The Examiner refers to the Revised Interim Utility and Written Description Guidelines and alleges “the disclosure in the instant case is not sufficient to enable the instantly claimed method treating [sic] solely based on the inhibitory activity disclosed for the compounds.” Again Applicants respectfully disagrees with this allegation and directs the Examiner’s attention to Example 3 and Example 4, wherein evidence is provided that the compounds have anti-proliferative activity in cells and inhibit tumor growth in animal models.

In the analysis of the in re Wands factors, Applicants respectfully want to point out that Applicants have provided competent evidence that are highly predictive for the pharmaceutical use (again reference is made to Examples 3 and 4). Examples 3 and 4 are standard models that are accepted in the art as being predictive. These Examples 3 and 4 are to be considered as working examples.

Double patenting

In view of the fact that claim 6 has been deleted, the double patenting objection has become moot.

Conclusion

For all of the reasons above, claims 1-5 and 7-35 are believed to be in condition for allowance, early notice of which is respectfully requested.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees or deficiencies due or credit any overpayment to Deposit Account Non. 10-0750/PRD0019 /MHM.

Respectfully submitted,

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